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October 24, 2016

VIA ECF

Honorable Debra Freeman
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Rosario v. Mis Hijos Deli Corp, et. al.,
15 CV 6049 (LTS)(DF)

Dear Magistrate Judge Freeman:

This firm represents the Plaintiff in the above-referenced action brought against Defendants for wage violations under the FLSA and NYLL. I write this letter to request permission to conduct the deposition of Mund Business Services ("Mund") on November 9, 2016.

Defendants identified Mund as their accountant. I issued a subpoena to Mund for the production of documents and to appear for a deposition in this matter. While I have received documents from Mund, it has been difficult to arrange a time that Mitchell Mund would be available to testify. After much e-mail correspondence and telephone calls insisting that Mr. Mund inform me when he would be able to testify, he has now told me that he will be available on November 9, 2016.

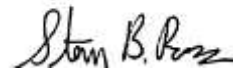
Mr. Mund's testimony is even more important now that we have received Defendant Jose Palma's response¹ to our follow-up questions to Mr. Palma's deposition regarding those documents that were not provided to Plaintiff by Defendant's prior to Defendants' depositions. As the Court may recall, these documents were not provided to Plaintiff's counsel until after the deposition of Jose Palma, the last defendant to be deposed, despite being in the possession of

¹ Plaintiff has not yet received a response sworn to by Mr. Palma, but Defendants' counsel indicates Mr. Palma's verification is forthcoming.

Defendants' counsel, and the Court granted Plaintiff permission to serve follow-up questions on Jose Palma concerning these documents. The documents contained submissions to the New York Liquor Authority that, on their face, were filled out and signed by defendant Jose Palma. In his response, Mr. Palma denies filling out the form, denies signing the form, denies knowledge that the forms were even filled out, and denies the truth of the contents of the form. Mr. Palma also suggests that it was likely Mr. Mund who in fact filled out these forms.

Given this new information, which was not previously available to Plaintiff, and Plaintiff's diligent efforts to attempt to depose Mund earlier, Plaintiff respectfully requests permission to conduct the third party deposition of Mund on November 9, 2016. Plaintiff does not need to delay opposition to Defendants' motions for summary judgment until after the deposition. Plaintiff is fully prepared to oppose the pending summary judgment motions without Mr. Mund's deposition testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Steven B. Ross". The signature is fluid and cursive, with the first name "Steven" and last name "Ross" being clearly distinguishable.

STEVEN B. ROSS